

1 MS. SADOWSKY: Objection, Your Honor. This goes
2 beyond the scope of my rebuttal, surrebuttal, direct
3 examination on surrebuttal.

4 MR. MASTANDO: No, it doesn't, Your Honor. It
5 goes directly to what Ms. Sadowsky --

6 MS. SADOWSKY: I asked --

7 MR. MASTANDO: -- introduced --

8 JUDGE STEINBERG: One at a time.

9 MS. SADOWSKY: I asked Mr. Hauschild no questions
10 with respect to WZZQ.

11 MR. MASTANDO: Well, what we inquired into on
12 surrebuttal was Paul Hanks' responsibilities.

13 MS. SADOWSKY: I --

14 MR. MASTANDO: And how he reported and who he
15 reported to, whether he reported to Mr. Hauschild --

16 MS. SADOWSKY: I believe I --

17 MR. MASTANDO: -- or to Mr. Rice.

18 MS. SADOWSKY: -- limited my questions to --

19 JUDGE STEINBERG: Let's just -- I will allow the
20 question. Basically, we are putting -- attempting to put
21 Mr. Hanks' testimony in a bad light, and I think that you
22 can go on with this for a little while. Let's see where you
23 are going. You know, I think it's fair to allow him a
24 little more leeway.

25 //

1 BY MR. MASTANDO:

2 Q Do you know to whom Paul Hanks would report
3 regarding his programming duties outside of your station?

4 A To the general manager at the station and to a
5 lesser degree, Janet Cox, because I know she was
6 instrumental in suggesting that this arrangement be
7 established.

8 Q Would it surprise you to know that Janet Cox
9 doesn't have a great programming background, a large
10 programming background?

11 MS. SADOWSKY: Objection. It's not going to
12 establish -- I think he is characterizing -- he is not
13 stating a fact, Your Honor. I think he is stating his own
14 opinion.

15 JUDGE STEINBERG: Well, this is cross-examination
16 and he's allowed to have a lot of leeway, and so I will
17 overrule your objection.

18 THE WITNESS: All right. No, it wouldn't surprise
19 me at all, and that was, I didn't think, terribly relevant
20 to what we were trying to do. What we were faced with was
21 there had been some historical difficulty in getting a good
22 program director in Terre Haute. So Janet had suggested
23 that perhaps with Chris's knowledge, and Chris was strongly
24 recommending a guy by the name of Ben Jacobs, who had only
25 been with us a couple of years. In fact, had only been out

1 of school a couple of years.

2 But he said that if Ben takes the job over there,
3 Ben did accept it, with Ben over there and Ben having worked
4 for Chris, he would follow his direction. And he -- so with
5 those people in place, with that -- Janet thought that this
6 might work out to be a pretty smooth operation.

7 BY MR. MASTANDO:

8 Q Isn't it a fact that Michael Rice had a pretty
9 substantial programming background?

10 A No. Michael Rice's background was primarily in
11 engineering, to the best of my knowledge. And the
12 programming or music background had been acquired over the
13 years, but had not been --

14 Q Do you know that for a fact, that he didn't have a
15 programming background?

16 A No, I know that he had an engineering background
17 most of his career. As I said, I was --

18 Q Isn't it a fact that Michael Rice was very
19 interested in programming?

20 A I can't say that with any degree of certainty,
21 frankly, because I did not ever have a conversation with him
22 about programming.

23 Q Do you know that Paul Hanks reported solely to the
24 general manager for KFMZ or -- I mean, WZZQ, as you
25 testified?

1 A I think --

2 JUDGE STEINBERG: Rephrase it. I didn't
3 understand it.

4 MR. MASTANDO: Okay.

5 BY MR. MASTANDO:

6 Q You testified that Paul Hanks reported to the
7 general manager of WZZQ.

8 Do you know that that's the only person he --

9 A No, you asked me who I believe he reported to.

10 Q Right.

11 A Well, it has to be speculation because I was not
12 over in Terre Haute, and I was taking care of our station.
13 I believe he reported to the general manager over there, and
14 to Janet Cox.

15 Q Isn't it a fact that you don't know to whom he
16 reported exactly?

17 A I think from an accounting standpoint, I know he
18 reported to Janet Cox because she and I had to split up
19 various costs that were involved in the two whole trips he
20 took under this great tenure. He had only been over there
21 twice, and a lot of long distance charges.

22 Otherwise, I believe that he was reporting to the
23 general manager, and that's --

24 Q So you don't know precisely who he reported to?

25 MS. SADOWSKY: Objection, Your Honor. This has

1 been asked and answered twice already. He said what he
2 believed.

3 JUDGE STEINBERG: Do you know for a fact that he
4 reported to -- who he reported to, who Mr. Hanks reported to
5 at WZZQ, other than what you would assume?

6 THE WITNESS: He may not have -- he may have felt
7 he only was reporting to me because he was only over there
8 twice, about a day and a half duration.

9 JUDGE STEINBERG: But you don't know?

10 THE WITNESS: And the general manager may have
11 been working strictly with them.

12 JUDGE STEINBERG: Okay, may have, but you don't
13 know?

14 THE WITNESS: No, I wasn't there. I was not --

15 JUDGE STEINBERG: So he doesn't know.

16 THE WITNESS: -- at that radio station.

17 BY MR. MASTANDO:

18 Q You mentioned that you offered Paul Hanks the
19 opportunity to resign.

20 Did you -- were you ever aware of anyone else
21 being offered the opportunity to resign instead of being
22 fired?

23 A Yes.

24 Q And who were those people?

25 A A sales person that was a little distraught about

1 being fired; my predecessor, and when we let her go was
2 given that option. That's the only other time that I recall
3 it happening at that radio station.

4 Q Was Jeff Davis given the opportunity resign or
5 work out a mutual agreement?

6 A No, he was not.

7 And that's to the best of my recollection because
8 it was a very amiable parting, and I believe we gave him a
9 sizeable, either he stayed on the air for another week to 10
10 days, and then we gave him several weeks severance pay when
11 he was let go.

12 Q You hesitated when you answered.

13 Are you sure that that's correct, or do you not
14 recall exactly?

15 A I do not believe he was given that, but that came
16 up in the conversation, but the -- the position, there was
17 certainly no announcement was made that he was fired
18 internally or externally. So the separation was very
19 amiable. And had he asked for that, he might have been
20 given it. He did not ask for it perhaps because he wished
21 to collect unemployment.

22 Q In your meetings or discussions with other GMs or
23 the corporate people, had you ever heard of anybody else
24 being offered the opportunity to resign?

25 A No, other than the instance where Scott Boltz

1 offered it.

2 Q When Janice Pratt was fired, did you discuss that
3 firing with Janet Cox?

4 A Yes.

5 Q And do you know where she got her information
6 about the situation with Janice Pratt?

7 A I believe she got it from both me and from
8 Chris/Paul.

9 Q Do you know whether she spoke to Michael Rice as
10 well?

11 A No.

12 Q No, you don't know, or, no, she didn't speak with
13 Michael Rice?

14 A To the best of my knowledge, she did not speak to
15 Michael about it.

16 Q Did you speak with Janet Cox when Mr. Kinneson was
17 terminated?

18 A No, I did not.

19 Q Did you speak with Paul Hanks when Mr. Kinneson
20 was terminated?

21 A Yes.

22 Q And do you know whether Mr. Hanks spoke with
23 Michael Rice?

24 A No.

25 Q Before Sean Madden quit, did you speak with Janet

1 Cox about possibly terminating him?

2 A No.

3 Q Did you speak with Janet Cox about his performance
4 on air?

5 A Not to my knowledge. I don't recall it.

6 Q Did you speak with --

7 A No. Excuse me for a moment. I want to clarify
8 it.

9 I spoke with her at length about his performance
10 on the air as part of the morning team with Sally Chase,
11 that we ever very concerned about it. Rather than just base
12 it on Arbitron numbers, we conducted our own in-house call
13 out survey to determine listeners' opinions of the Sean
14 Madden/Sally Chase morning show.

15 So that when I made the final decision, it wasn't
16 at all capricious or based on the published syndicated
17 research. We went to great lengths to make sure we were
18 making the right decision.

19 And, of course, Janet was made aware of our -- the
20 research that we were doing and why we were doing it.

21 Q After what period of time that Janet was made
22 aware of the research, how long did it take before he was
23 actually -- he actually left?

24 A We conducted the research the very end of August
25 through well into September. We made the on-air moves in

1 October, and Sean took -- Sean left in January.

2 Q You mentioned that Paul Hanks had difficulty
3 making decisions or didn't fire people as quickly as he
4 might have; is that a correct statement, correct
5 recharacterization of your testimony?

6 A I said that he had difficulty taking the time or
7 putting the energy to hire individuals, which resulted in
8 our keeping people on longer than perhaps we normally would
9 have.

10 Q Did he consult with people to make these types of
11 decisions about hiring? Did he consult with you?

12 A At times, yes. And, of course, the final decision
13 was made by both of us. But it was his responsibility to
14 bring candidates in and say, "Well, we've got two people
15 here, thus and so, here are their tapes, here are their
16 resumes. Would you like to meet with either one of them? I
17 personally think this one is terrific. What can I offer
18 her?"

19 Q And he never spoke about Michael Rice's
20 involvement in the process of hiring?

21 A No.

22 Q Did he ever speak about Michael Rice's involvement
23 in the process of firing?

24 A No.

25 Q Did he ever speak bout Michael Rice's involvement

1 in the process of programming?

2 A No.

3 Q Do you recall any meetings conducted by Janet Cox
4 at or about the time Michael Rice was hospitalized in 1991?

5 A Um-hmm.

6 JUDGE STEINBERG: You have to answer yes or no.

7 THE WITNESS: Yes.

8 Do I recall?

9 BY MR. MASTANDO:

10 Q Janet Cox calling a staff meeting.

11 A I believe she did.

12 Q Can you tell us what she said at the staff
13 meeting?

14 A I honestly can't precisely. That was in April of
15 '91;

16 Q Right. You didn't recall her mentioning anything
17 about Michael Rice then?

18 MS. SADOWSKY: Objection. Is that a question?

19 JUDGE STEINBERG: Okay, rephrase it, please.

20 MR. MASTANDO: Certainly, Your Honor.

21 BY MR. MASTANDO:

22 Q Did Janet Cox at this meeting say anything about
23 Michael Rice?

24 A To be honest, she may have, and I -- I do not
25 recall that with any degree of crystal clear clarity.

1 Scott Boltz, my predecessor, called a meeting at
2 the end of February primarily to just tell the staff what
3 was being broadcast all over the other radio stations and in
4 the newspaper. I personally found out about it through
5 another radio station.

6 Q Personally found out about what through another
7 radio station?

8 A That Michael Rice had been accused of -- I do not
9 recall. What I am trying to remember is whether they had
10 actually -- they had announced -- if there was a staff
11 announcement that he had gone in the hospital.

12 Q Do you ever recall an announcement that Michael
13 Rice was supposed to be excluded from the management or day-
14 to-day operations of the station?

15 A I was -- we were told, and I don't know if that
16 came from Janet or it came from Scott Boltz, that he was no
17 longer going to be involved. I believe it was stated that
18 he was no longer going to be involved in the day-to-day
19 operations of the radio station.

20 Q Did they say why that was?

21 A It was pending some legal --

22 Q Was it because he was hospitalized or?

23 A I don't know if the word "hospitalized" was
24 mentioned at that time. I don't know that he was
25 hospitalized at the time that was mentioned.

1 JUDGE STEINBERG: Okay, when was this, to the best
2 of your knowledge?

3 THE WITNESS: To the best of my knowledge, that
4 was in April of '91.

5 MR. MASTANDO: I have no further questions, Your
6 Honor.

7 JUDGE STEINBERG: Okay, I have a couple to follow
8 up on that.

9 You said that Scott Boltz told you that Mr. Rice
10 was going to be isolated?

11 THE WITNESS: Um-hmm.

12 JUDGE STEINBERG: That's a yes?

13 THE WITNESS: Yes, sir. Sorry.

14 JUDGE STEINBERG: Was it a one-on-one conversation
15 or was it in a meeting?

16 THE WITNESS: I believe it was in a staff meeting.

17 JUDGE STEINBERG: Okay. Do you know who else was
18 in the staff meeting?

19 THE WITNESS: On-air talent and sales staff that
20 were available at that time.

21 JUDGE STEINBERG: Do you remember whether Mr.
22 Hanks was at that meeting?

23 THE WITNESS: I honestly don't. I mean, I
24 couldn't -- chances are.

25 JUDGE STEINBERG: But you don't remember?

1 THE WITNESS: But, no, I can't say precisely.

2 JUDGE STEINBERG: Okay.

3 THE WITNESS: And I was one of the salespeople at
4 the time.

5 JUDGE STEINBERG: If for some reason he was not
6 there that day, he wouldn't have been at meeting?

7 THE WITNESS: Correct.

8 JUDGE STEINBERG: You said it was not necessary
9 for hiring decision to be cleared by Mr. Rice, Michael Rice;
10 is that correct?

11 THE WITNESS: That's correct.

12 JUDGE STEINBERG: But you don't know whether Mr.
13 Hanks cleared any hiring decisions with Mr. Rice?

14 THE WITNESS: No, I don't.

15 JUDGE STEINBERG: Okay. You said that Mr. Hanks
16 never told you that Mr. Rice told him to fire people,
17 talking about Ms. Pratt, Mr. Kinneson, other people? I
18 mean, Mr. Hanks never told you that Mr. Rice told him to do
19 these things?

20 THE WITNESS: No.

21 JUDGE STEINBERG: Is that correct?

22 Okay, but you have no way of knowing -- if Mr.
23 Hanks didn't tell you something, you had no way of knowing
24 whether Mr. Hanks and Mr. Rice met, and that Mr. Rice told
25 Mr. Hanks to do something?

1 Can you follow that?

2 THE WITNESS: Yes, I follow it.

3 JUDGE STEINBERG: And that's an accurate
4 statement?

5 THE WITNESS: It has to be.

6 JUDGE STEINBERG: I mean, you weren't privy to all
7 the conversations --

8 THE WITNESS: No.

9 JUDGE STEINBERG: -- between Mr. Hanks and Mr.
10 Rice, that's right?

11 THE WITNESS: Correct.

12 JUDGE STEINBERG: It's only if Mr. Hanks told you
13 something would you know?

14 THE WITNESS: Correct.

15 JUDGE STEINBERG: Did Janice Pratt -- why don't
16 you describe her on-air voice to us if you can.

17 Is it worse than mine?

18 (Laughter.)

19 JUDGE STEINBERG: I have a pretty bad voice. You
20 would never hire me. I mean, I could send you an air check
21 tape maybe for a comedy show.

22 Is it high and screechy?

23 THE WITNESS: A little bit, but not excessively.

24 JUDGE STEINBERG: Not excessively.

25 THE WITNESS: Sometimes it was husky.

1 JUDGE STEINBERG: Okay, did she have -- okay.

2 THE WITNESS: It wasn't as professional.

3 JUDGE STEINBERG: Do you have any other
4 employment, I mean, other than your position at the
5 stations?

6 THE WITNESS: No, I don't.

7 SURREBUTTAL REDIRECT EXAMINATION

8 BY MS. SADOWSKY:

9 Q Do you have any other sources of income besides
10 your employment?

11 A No.

12 Q Do you have investments?

13 A Oh, yeah. Well, other than small investments.

14 MS. SADOWSKY: That's all.

15 JUDGE STEINBERG: Okay, thank you very much. You
16 are excused. Appreciate your coming to testify. And if you
17 ever do a comedy show, you can contact me.

18 (Laughter.)

19 (Witness excused.)

20 JUDGE STEINBERG: Let's go off the record.

21 (Whereupon, a recess was taken.)

22 JUDGE STEINBERG: Okay, we are back on the record.

23 Ms. Sadowsky, do you have any more witnesses you
24 want to present?

25 MS. SADOWSKY: No, Your Honor. We have completed

1 our surrebuttal.

2 JUDGE STEINBERG: Mr. Zauner, you don't have any
3 further witnesses you want?

4 MR. ZAUNER: No, Your Honor.

5 JUDGE STEINBERG: Okay. I will close the record
6 at the end of this session here. There is one thing that
7 remains outstanding, one piece of information, and that's
8 the date of the second amended information, which is Mass
9 Media Bureau Exhibit 1, Attachment 1.

10 And what we decided to do on that is the Bureau
11 will be getting a copy of the document containing the date
12 and the Bureau will exchange that with counsel for the
13 Licensees, and then a stipulation will be entered into and
14 filed with me or with the Commission containing that date.

15 And I would like you to attach to the stipulation
16 a copy, if not the entire second amended complaint, then
17 just that last page showing the date. There is no -- I
18 don't see any need to actually withdraw the Bureau's exhibit
19 and replace it. I think that would be overkill. And I
20 think that a stipulation will take care of it just as well.

21 In terms of the due date for that, the due date
22 will be sometime before findings are filed. And I urge the
23 Bureau not to wait until the day before findings are filed
24 before you exchange the date because the Licensees may want
25 to use that date in findings.

1 With respect to findings, proposed findings of
2 fact and conclusions of law, we have agreed that proposed
3 findings will be due on August 9, 1996, and replies will be
4 due August 23, 1996.

5 And I have some things I would like to say about
6 findings and conclusions, at least about the findings.

7 I would like both parties to file complete
8 findings. There are two sides to every story, and I would
9 like both sides to appear in both sets of findings, and I
10 would like them to appear as objectively as possible.

11 If you are going to say that so and so testified
12 A, B, C, D and E, make sure that the witness testified to A,
13 B, C, D and E, and not to just A, B, D, and E, and you just
14 snuck C in there. That's been done, and that causes me lots
15 of problems because when I write my -- when I write my
16 decision, I check your findings word for word, line for
17 line.

18 I would prefer you use the language the witness
19 used rather than paraphrasing, because many times I found
20 that the paraphrasing is exaggerated and it's usually
21 exaggerated in favor of the side that's submitting the
22 findings, which is a giant surprise.

23 Again, I don't look kindly on that because it just
24 takes me a longer period of time to write the decision
25 because I change all that back.

1 In your conclusions, there you can have a lot more
2 leeway. There you can argue that the facts -- that the bad
3 facts aren't really bad, or the bad facts should not be
4 considered so bad because, or the bad facts, or there is an
5 explanation for the bad facts. That's where you get
6 creative. But i would prefer you not get creative in the
7 findings.

8 If you cite cases in your conclusions, there might
9 be a remote possibility that I will see case laws in the
10 conclusions, make sure that the cases say what you say they
11 say, because I do read those too, and you would be surprised
12 how many cases don't really say what people say they say.

13 That's with respect to the findings and
14 conclusions.

15 On the replies, what is most helpful to me is not
16 a repetition of what the findings were, but nice, short,
17 sweet statement like, "In the Bureau findings paragraph 3,
18 the Bureau said this. This is not accurate because of this."
19 Or, "So and so, yes, so and so said this during direct
20 examination, but clarified it on cross-examination.
21 Paragraph 12 of the Licensees' conclusion cites this case.
22 Well, this case is distinguishable because."

23 You know, short, sweet, to the point, and I find
24 that a good set of reply findings is wonderful. You know,
25 just rip each other apart, if you can. Distinguish the

1 cases, explain why the bad facts aren't bad, and why the
2 emphasis should be on this rather than that. The better a
3 job you do on your findings and replies, the faster the ID
4 you'll get.

5 And I do take great care in writing my decisions
6 because my name is on it. If my name wasn't on it, maybe I
7 wouldn't care.

8 There is one thing as a matter of law that I would
9 like you to put in your findings, in your conclusions. The
10 question is issue two speaks only in terms of
11 misrepresentation to the Commission. What I want you to
12 discuss is whether -- let's assume I don't find a
13 misrepresentation. Can I find a lack of candor under that
14 issue, or am I precluded from finding a lack of candor
15 because the language of the issues only speaks in terms of
16 misrepresentation.

17 In other words, is lack of candor a lesser
18 included offense to the allegation of misrepresentation, if
19 you catch my drift.

20 Any of you have any questions about anything I
21 have said?

22 Ms. Sadowsky, anything further?

23 MS. SADOWSKY: Nothing further, Your Honor.

24 JUDGE STEINBERG: Mr. Zauner?

25 MR. ZAUNER: Yes, Your Honor.

1 The Bureau would like to make a motion. Earlier
2 today during the testimony of Janet Cox there was testimony
3 elicited with regard to a document concerning the
4 resignation of one Mike McMillion or Mike Steel, same
5 person, two names.

6 Subsequently that document was withdrawn and not
7 offered into evidence. Consequently, the Bureau would move
8 that the testimony surround the document and the resignation
9 of Mike Steel be stricken.

10 MS. SADOWSKY: Your Honor, I would object to the
11 striking of any testimony concerning Mr. Steel's resignation
12 because it came before the document was presented to the
13 witness. That's is.

14 JUDGE STEINBERG: Yes, I think Ms. Sadowsky is
15 correct, that there was testimony -- the testimony that he
16 resigned came before the document was shown to the witness.
17 If anything, the document corroborated that.

18 Now, the document isn't in the record so we will
19 just have to take the testimony at face value.

20 MR. ZAUNER: Okay, there is nothing further from
21 the Bureau, Your Honor.

22 JUDGE STEINBERG: Oh, it would be extremely
23 helpful, since so many people have so many different names,
24 if counsel could meet and agree on one set of names to use.

25 MS. SADOWSKY: Okay.

1 JUDGE STEINBERG: So we're not talking about Chris
2 Kellogg, we're talking about Mr. Hanks. We are not talking
3 about Mr. Bianchi, we are talking about Mr. Savage. And
4 with the understanding that the witnesses used many
5 different names, and if anybody is going read this
6 transcript they are going to know that. But if we could
7 just agree on -- you can agree on one set of names to use
8 for each individual, I think that would help everybody.

9 MS. SADOWSKY: Your Honor, one, that made me think
10 of one other thing. The transcript of the original hearing
11 session contains a few typographical errors in words, and I
12 would like to file a motion, actually a joint motion with
13 the Bureau just to correct the transcript.

14 MR. ZAUNER: Yes, I noticed the same thing, and I
15 would join in that.

16 JUDGE STEINBERG: Do you want to wait for all --
17 actually there will be three volumes of testimony. Well,
18 whatever, and just file one motion? Do you want me to set a
19 date for that?

20 MS. SADOWSKY: Sure.

21 MR. GAFFNEY: And we will get together an errata
22 sheet of some type.

23 MR. ZAUNER: Sure.

24 JUDGE STEINBERG: And if there are any disputes
25 about -- I know there is a way of getting a tape, and

1 perhaps you can get the tape and listen to the tape together
2 and you can -- if there are any disputes.

3 MR. ZAUNER: Yes, I noticed some very obvious
4 things.

5 JUDGE STEINBERG: Yes.

6 MR. ZAUNER: For example --

7 JUDGE STEINBERG: Yes, my legal technician has
8 added this up. I am pointing to Volume 4 of the transcript,
9 and Terre Haute, Terra throughout. But that's -- you know,
10 who cares.

11 MR. ZAUNER: At one point they have Ms. Cox as
12 giving an answer to a question, they have it as you. I
13 noticed that at one time.

14 JUDGE STEINBERG: Well, if was Judge Miller, we
15 could understand that because he -- okay, do you want to set
16 a date for that?

17 MS. SADOWSKY: Since we don't know when the next
18 transcript will be in.

19 JUDGE STEINBERG: Well, let me see. August --
20 when are you going on vacation. Do you want to do that
21 before vacation?

22 MS. SADOWSKY: Yes. By the end of June.

23 JUDGE STEINBERG: Okay, June 30th, on a weekday?

24 Let me ask the reporter for the calendar. Thank
25 you. Teach me to leave my own in my office.

1 JUDGE STEINBERG: This is '96, right.

2 MR. ZAUNER: June 28th, which is a Friday.

3 JUDGE STEINBERG: Yes, June 28th will be a Friday.

4 MS. SADOWSKY: That's fine.

5 JUDGE STEINBERG: Okay. So June 28th for joint
6 motion to correct transcript.

7 Okay, if there is nothing further, then I will
8 close the record at this juncture, and I want to thank you
9 very much for participating in this hearing. It was almost
10 a pleasure.

11 We will go off the record now. Thank you.

12 MR. ZAUNER: Thank you.

13 (Whereupon, at 2:40 p.m., the hearing was
14 concluded.)

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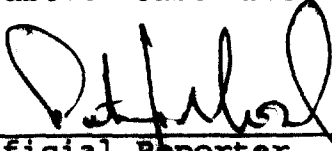
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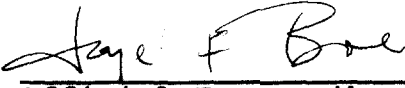


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